

COMMITTEE AMENDMENT FORM

DATE: 03/13/07

COMMITTEE CITY UTILITIES PAGE NUM. (S) 1

ORDINANCE I. D. #07-O- SECTION (S)

RESOLUTION I. D. #06-R-2299 PARA.

AMENDS THE LEGISLATION BY DELETING THE AMOUNT OF \$1,149,900.00 IN
THE FIRST WHEREAS AND REPLACE IT WITH \$862,400.00.

AMENDMENT DONE BY COUNCIL STAFF 03/13/07

A SUBSTITUTE RESOLUTION

06-R-2299

AS AMENDED BY CITY UTILITIES COMMITTEE

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR A PROJECT TO ANALYZE AND MAP FLOOD PRONE AREAS ASSOCIATED WITH STORM WATER RUNOFF WITHIN THE COMBINED SEWER BASINS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN AN AMOUNT NOT TO EXCEED TWO HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$287,500.00); ALL CONTRACTED WORK WILL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBER 2J21 (WATER & WASTEWATER RENEWAL & EXTENSION) 524001 (CONSULTANT/PROFESSIONAL SERVICES) Q38I029294DA (CSO COST SHARING); AND FOR OTHER PURPOSES.

WHEREAS, Section 219 of the Water Resources and Development Act of 1992, has authorized the United States Army Corps of Engineers (USACE) to contribute Eight Hundred Sixty-Two Thousand Nine Hundred Dollars and No Cents (\$862,900.00) towards a combined sewer system project to be managed by USACE, and requiring the City to contribute Twenty Five Percent (25%) of the project costs, approximately Two Hundred Eighty-Seven Thousand Five Hundred Dollars and No Cents (\$287,500.00); and

WHEREAS, the City of Atlanta's ("City") Department of Watershed Management has a need to analyze and map flood prone areas associated with storm water runoff within the Combined Sewer Basins, and has reached agreement with USACE that the Project meets the definition under Section 219 of the Water Resources and Development Act of 1992; and

WHEREAS, the Project will allow the City to create and implement comprehensive development plans and preliminary designs for relief projects that give full consideration of the existing and near future capability of the combined sewer system; and

WHEREAS, the Commissioner of the Department of Watershed Management recommends the execution of an agreement with the United States Army Corps of Engineers to conduct a Project in an amount not to exceed Two Hundred Eighty-Seven Thousand Five Hundred Dollars and No Cents (\$287,500.00).

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor is authorized to execute an agreement with the United States Army Corps of Engineers ("USACE") for the Project in an amount not to exceed Two Hundred Eighty-Seven Thousand Five Hundred Dollars and No Cents (\$287,500.00).

BE IT FURTHER RESOLVED, that all contracted work will be charged to and paid from Fund, Account and Center Number: 2J21 (Water & Wastewater Renewal & Extension) 524001 (Consultant/Professional Services) Q38I029294DA (CSO Cost Sharing).

AND FINALLY BE IT RESOLVED, that the Agreement will not become binding on the City and the City will incur no obligation nor liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney and delivered to the USACE.

A SUBSTITUTE RESOLUTION

06-R-2299

BY CITY UTILITIES COMMITTEE

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR A PROJECT TO ANALYZE AND MAP FLOOD PRONE AREAS ASSOCIATED WITH STORM WATER RUNOFF WITHIN THE COMBINED SEWER BASINS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN AN AMOUNT NOT TO EXCEED TWO HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$287,500.00); ALL CONTRACTED WORK WILL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBER 2J21 (WATER & WASTEWATER RENEWAL & EXTENSION) 524001 (CONSULTANT/PROFESSIONAL SERVICES) Q38I029294DA (CSO COST SHARING); AND FOR OTHER PURPOSES.

WHEREAS, Section 219 of the Water Resources and Development Act of 1992, has authorized the United States Army Corps of Engineers (USACE) to contribute One Million One Hundred Forty-Nine Thousand Nine Hundred Dollars and No Cents (\$1,149,900.00) towards a combined sewer system project to be managed by USACE, and requiring the City to contribute Twenty Five Percent (25%) of the project costs, approximately Two Hundred Eighty-Seven Thousand Five Hundred Dollars and No Cents (\$287,500.00); and

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**Letter Report for
Environmental Infrastructure Assistance Program
Section 219 of WRDA 1992**

**Design Support for Combined Sewer Overflow System
City of Atlanta, Georgia**

NON-FEDERAL SPONSOR. The City of Atlanta (hereinafter referred to as the “City”) is the non-Federal sponsor. The City is represented by the Honorable Mayor Shirley Franklin. The City of Atlanta encompasses parts of DeKalb and Fulton Counties as highlighted in **Figure 1**. The project area is located in Congressional Districts (GA-04) and GA-05).

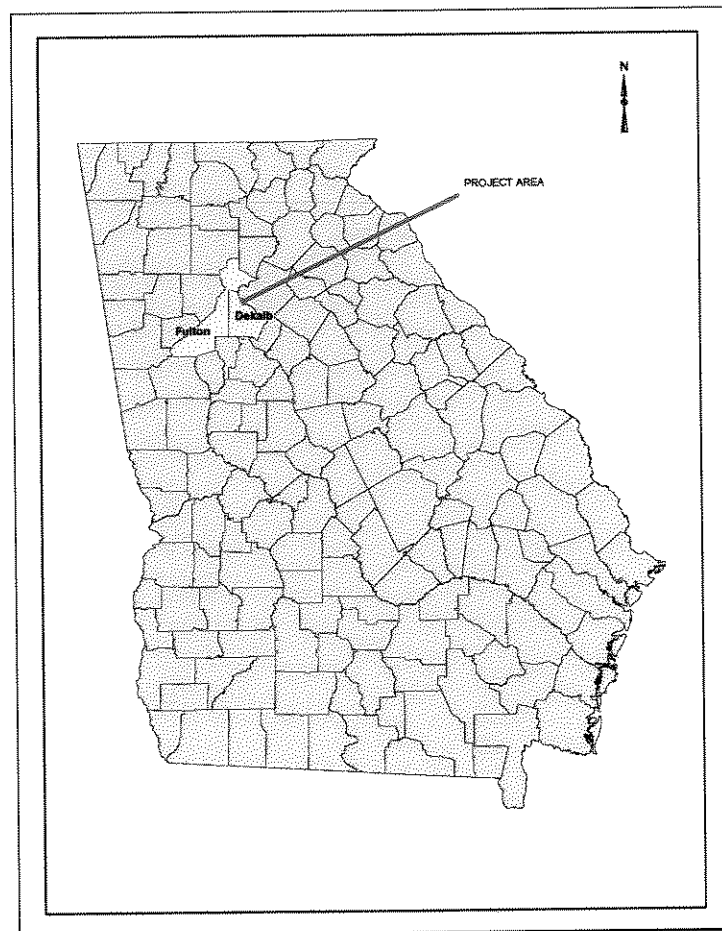


Figure 1. Project Area

DESCRIPTION OF THE PROJECT. The City of Atlanta’s combined sewer overflow system (CSO) offers the sole conveyance for urban stormwater runoff within the Boulevard, Clear Creek, Connally, Grant Park, Lloyd, North Avenue and Tanyard tributary areas (**Figures 2 & 3**).

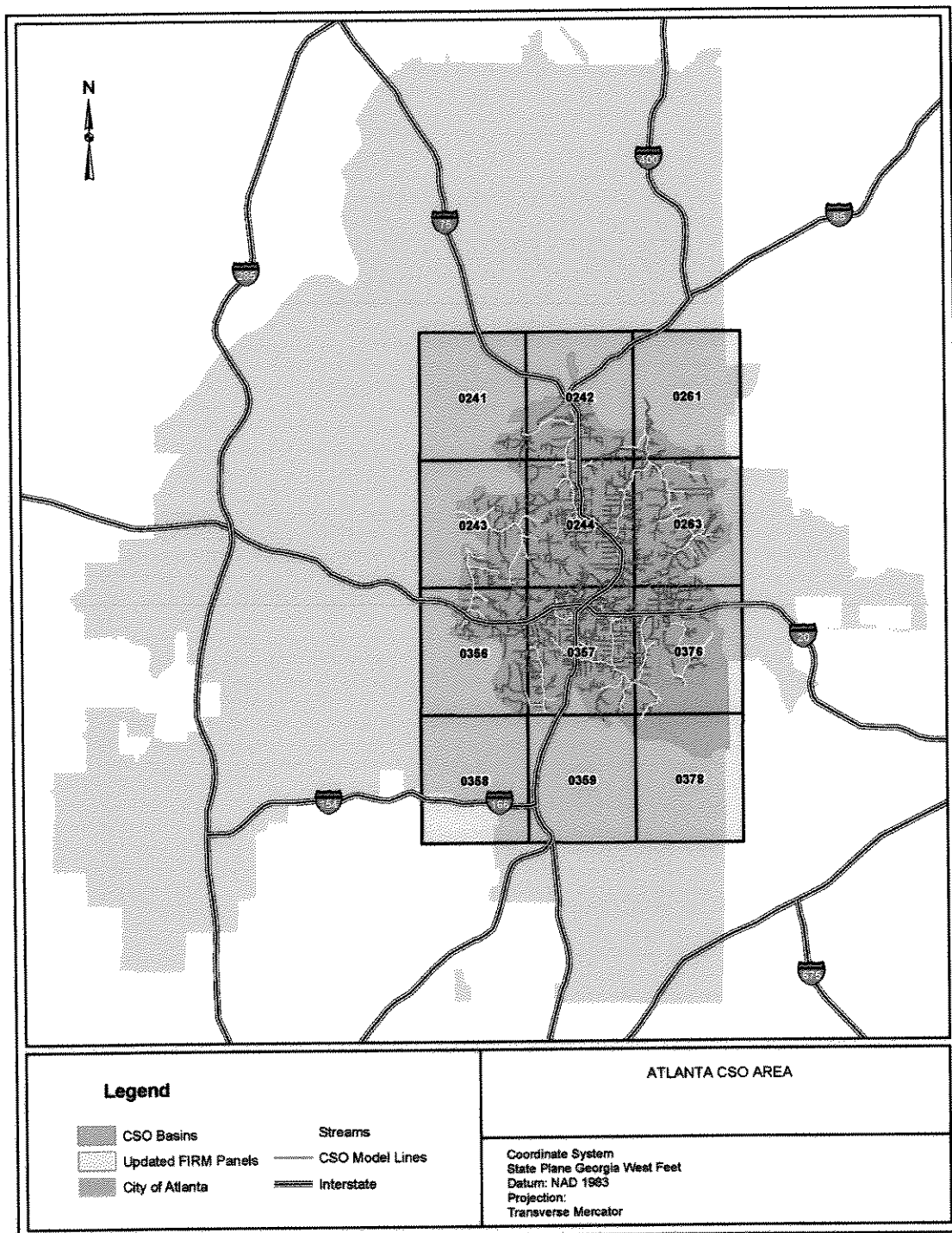


Figure 2. CSO Area

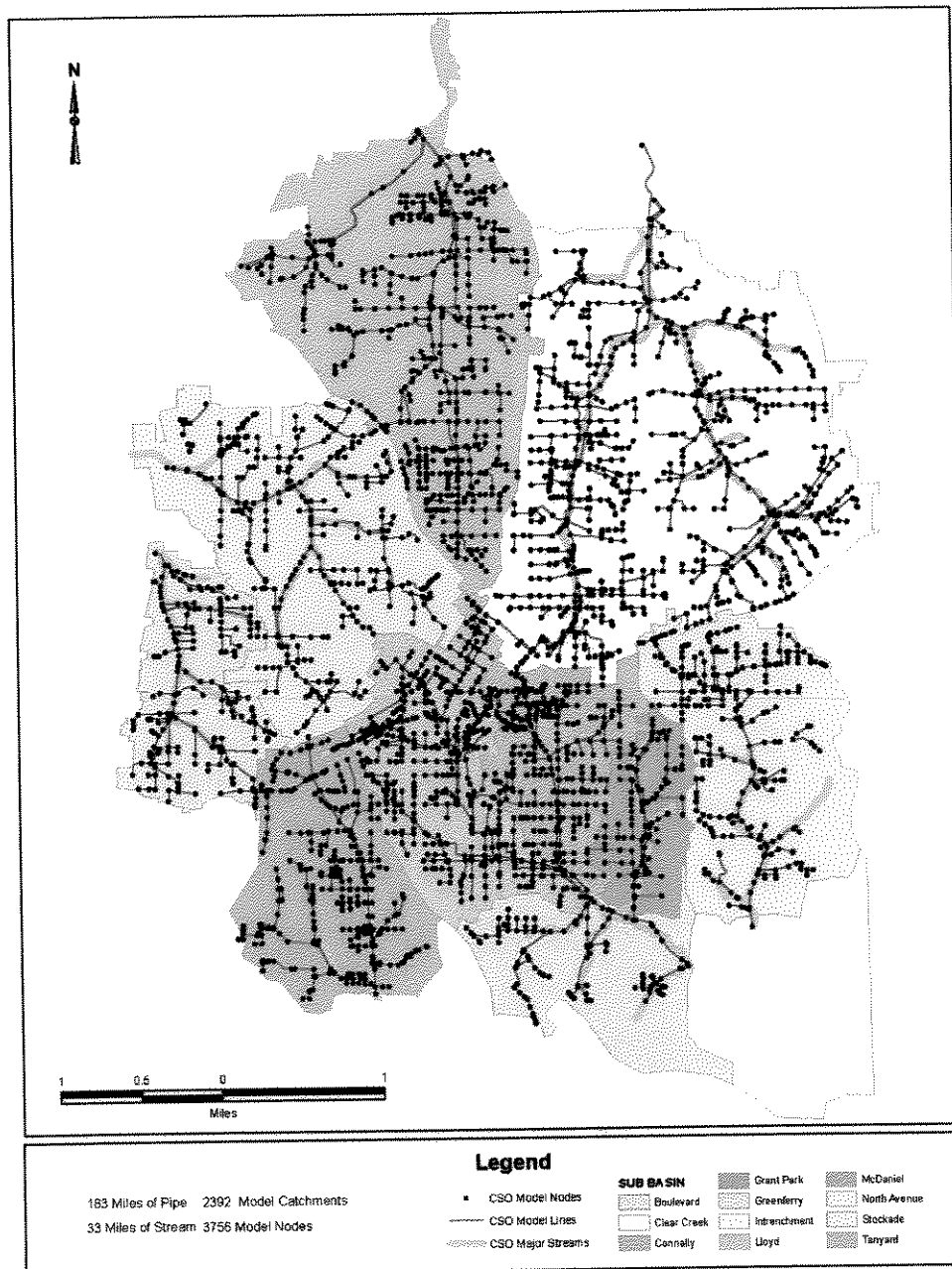


Figure 3. CSO Basins With Piping Detail

The Environmental Protection Agency (EPA) and Environmental Protection Division (EPD) consent decrees required the City to provide wet weather capacity relief in both the combined and separate sanitary sewer systems. The proposed project design support will analyze in detail the hydrology and hydraulics conditions of the City's combined sewer system. Predicted wet weather flows and sewer overflows will be utilized within the CSO Program to:

1. Support the City's ongoing hydraulic modeling of the combined sewer system to develop a comprehensive solution for capacity relief.

2. Support the City in developing and implementing development standards and restrictions for flood prone areas within the combined sewer basins.
3. Improve the effectiveness of the authorized CSO Plan through a combination of capacity relief, development planning and mapping of flood prone areas.

More specifically, the project supports the ongoing design and rehabilitation of the City's CSO system that will mitigate the frequency and magnitude of combined sewer overflows and stormwater flooding in the City's collection system. Upon completion of project design, it will provide the City with a tool to identify and prioritize stormwater improvement projects. The project will identify flood prone areas and capacity limitations within the collection system. In addition, flooding information will help the City's planning efforts with future development. The project will directly benefit approximately 250,000 citizens within the City of Atlanta. The City and the Corps will review all project design information prior to recommending further work.

The project design will consist of utilizing the City's existing calibrated urban stormwater computer model to estimate the impacts of various recurrence flood events. The results of the modeling will be used as a basis of design for stormwater improvement projects within the CSO area. Additionally, the model results will be used to assist the City in better managing and protecting the associated areas from future flooding.

PROJECT AUTHORITY.

Section 219 – Environmental Infrastructure ---Atlanta, Georgia, a combined sewer overflow treatment facility for the City of Atlanta, Georgia.

(a) In General. – The Secretary is authorized to provide assistance to non-Federal interests for carrying out water and related environmental infrastructure and resource protection and development projects described in subsection (c), including wastewater treatment and related facilities and water supply, storage, treatment, and distribution facilities. Such assistance may be in the form of technical and planning and design assistance. If the Secretary is to provide design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary to the Secretary to provide such assistance, unless the Secretary finds that –

(1) the service would require the use of a new technology unavailable in the private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) Non-Federal Share. – The non-Federal share of the cost of projects for which assistance is provided under this section shall not be less than 25 percent, except that such share shall be

subject to the ability of the non-Federal to pay, including the procedures and regulations relating to pay established under section 103 (m) of the Water Resources Development Act of 1986.

(c) Project Descriptions.—The project for which the Secretary is authorized to provide assistance under subsection (a) is as follows:
Atlanta, Georgia. – A combined sewer overflows treatment facility for the City of Atlanta, Georgia. WRDA 1999 Amendment which adds paragraph (f).

“(f) Additional Assistance – The Secretary may provide assistance under subsection (a) and assistance for construction for the following:”

(1) Atlanta, Georgia. – The project described in subsection (c) (2), modified to include \$25,000,000 for watershed restoration and development in the regional Atlanta watershed, including Big Creek and Rock Creek.

FINANCIAL CAPABILITY OF SPONSOR. The City’s elected official body is charged with management and operation of all municipal actions. City actions are supported by taxpayer dollars. In accordance with Section 219 of WRDA 1992 the cost share ratio is 75% Federal and 25% non-Federal. The estimated total project cost is **\$1,149,900** for Phase I and Phase II Project Design. The non-Federal share of this amount is estimated at **\$287,500**. The Federal share is estimated at **\$862,400**. The completed project will become part of the City’s implementation plan for future CSO system improvements. The Corps and the local sponsor will provide appropriate shares of project funds for management of a contract to develop project design as identified in the attached scope of work.

ENVIRONMENTAL COMPLIANCE. The National Environmental Policy Act (NEPA) compliance will ultimately be required for any construction effort derived from this project. This will include consideration of no adverse impacts to the environment. The project design has not progressed to a point that would allow evaluation for a specific NEPA compliance. The Corps will ensure compliance as part of the design review and project coordination process and no construction will occur prior to the completion of the NEPA process.

COST. Phase I will be conducted in 2007 with an estimated cost as presented in Table 1. Phase II will be conducted in 2008 as shown in Table 2. The two major cost elements are:

1. Project Design Contract.
2. Corps supervision and administration costs including programs and project management, engineering design oversight, report documentations and approval, cost estimates, and contingency.

Federal participation for element 1 above will be executed through awarding of an A-E contract in accordance with the authorizing legislation. The project cost estimates for Phase I

and Phase II are provided below. The total cost for both phases is estimated at \$1,149,900 rounded.

Table 1
Phase I - Complete In FY 2007 - Cost Estimate for Combined CSO Areas

Project Components	
Task 1 – Data Collection and Review	\$ 81,832
Task 2 – Hydrologic and Hydraulic Modeling	\$ 340,770
Task 3 - Model Validation and System Simulations	\$ 110,080
Task 4 - Flood Plain Mapping	\$ 145,960
Task 5 – Corps of Engineers Oversight	\$ 135,728
Contingency	\$ 36,627
Estimated Total Project Cost	\$ 851,000

Table 2
Phase II - Complete in FY 2008 - Cost Estimate for 3 Uncombined CSO Areas

Project Components	
Task 1 – Data Collection and Review	\$ 9,004
Task 2 – Hydrologic and Hydraulic Modeling	\$ 137,235
Task 3 - Model Validation and System Simulations	\$ 39,648
Task 4 - Flood Plain Mapping	\$ 51,660
Task 5 – Corps of Engineers Oversight	\$ 47,509
Contingency	\$ 13,803
Estimated Total Project Cost	\$ 298,900

SCHEDULE. This project represents a component of the City's larger CSO program. Federal involvement will include all program and project management in addition to model design reviews. The project schedule is presented below for Phase I. The detailed scope of work for this effort is included in **Appendix A**. Phase II schedule will be completed when phase I design work is completed.

Appendix A
Scope of Work
Environmental Infrastructural Assistance Program
Section 219 of WRDA 1992
Design of Combined Sewer Overflow System
For the City of Atlanta, Georgia

PROJECT GOAL

The goal of this project is to analyze the City of Atlanta's combined sewer system, which is subdivided into ten service areas, to estimate and map the depth and extents of flooding associated with system overflows in seven of these ten service areas including Boulevard, Clear Creek, Connally, Grant Park, Lloyd, North Avenue and Tanyard. The Greensferry, McDaniel and Stockade areas are currently being separated and will be addressed under a separate scope. The City of Atlanta has expressed an interest in analyzing the effects of four design storms to provide the ability to set advisory flood elevations over a range of scenarios. It is currently anticipated that the four storms that will be analyzed include the 5-, 10-, 25- and 100-year, 24-hour design storms.

By establishing the depths and extents of flooding along the combined sewer system, the City of Atlanta will have the capability to adequately size its combined sewer system (CSO) while also providing advisory flood elevations to developers seeking to build adjacent to the system.

TASK 1 DATA COLLECTION AND REVIEW

OBJECTIVE: The Consultant shall collect and review all available reports, data and models for developing flood mapping for the City of Atlanta (City) combined sewer system. This review will include both the overall City GIS for the study area as well as reviewing all existing model data and reports. While only seven of the ten service areas will be modeled under this scope, data collection will be performed such that information is gathered for all ten service areas to facilitate future modeling of the Greensferry, McDaniel and Stockade areas which are currently being separated.

Based on initial evaluation of existing models and approaches related to the CSO flood analysis performed in 2003, the consultant recommends that all modeling use the calibrated InfoWorks combined sewer models that are currently under development under the Clean Water Atlanta Program. These models will be used as a starting point for the CSO mapping effort. The CSO flood analysis models will be an independent set of models used specifically to predict flooding depths and extents in

each CSO service area. The Clean Water Atlanta models will continue to serve as the basis for analyzing future CSO system improvements. It should be noted that industry standard methodology for modeling CSO pipe networks does not include analysis of overland flow resulting from inlet capacity limitations or system overflows. Therefore, a flooding analysis such as the one proposed requires a separate set of models.

At the time previous CSO flooding analyses were performed, software limitations necessitated the use of several different models and hand calculations to determine flooding extents. Revising the CSO flood modeling approach using InfoWorks will provide the following benefits:

- ✧ A consistent modeling platform between CSO system modeling and CSO flood modeling. This will allow for a simpler model update process as improvements are made to the CSO system.
- ✧ Incorporation of all CSO flood analysis data (including hydrologic and hydraulic parameters) into one model rather than calculations spanning over multiple software packages (e.g. XP-SWMM, HEC-RAS and hand calculations).
- ✧ Improved accuracy of flooding depths and extents by dynamically modeling the interaction between pipe system flow and surface flow over the major portions of the system.
- ✧ Consideration of approximate storm inlet capacities over the major portions of the system to more realistically represent periods of inlet control (i.e. when runoff from large storms, such as the 100-year storm, overwhelm inlets and ponding occurs rather than the pipe system reaching capacity and surcharging).
- ✧ Model data, including pipe/node network and overland flow path geometry, will reflect current field conditions.

DELIVERABLES: The Consultant shall prepare the following:

- A. Final strategy memo for incorporation of overland flow path geometry and inlet capacities into the CSO flood analysis models
- B. GIS Data needs list

1.1 MODEL AND REPORT REVIEW

OBJECTIVE: The Consultant shall review the recently completed InfoWorks models representing the City of Atlanta's CSO system (broken into ten service areas) along with any supporting reports. These models are currently only intended to reflect the performance of the pipe system with no consideration of the impacts of system overflows and associated flooding. The model and report review will be conducted strictly to identify the best strategy for incorporating overland flow path geometry and inlet capacities

as described above. QA/QC of the existing CSO models is not included in this scope.

The Consultant will deliver a summary of the final proposed strategy for incorporation of overland flow path geometry and inlet capacities for City and United States Army Corps of Engineers (USACOE) approval prior to proceeding.

DATA NEEDS:

- All existing, calibrated InfoWorks CSO models and model databases (representing seven CSO system service areas). See Figure 2 attached.
- All supporting reporting documenting the CSO modeling process.

ASSUMPTIONS:

- All model data files will be transmitted in digital format, in InfoWorks version 7.0 or newer.
- Calibrated model hydrology developed under the Clean Water Atlanta Program will not be altered during the CSO flood analysis.
- Calibrated Clean Water Atlanta Program CSO models adequately represent the current CSO pipe network. No additional system improvements will be incorporated into the CSO flood analysis models.

DELIVERABLES: Final strategy for incorporation of overland flow path geometry and inlet capacity

1.2 GIS AND OTHER SUPPORTING DATA REVIEW

OBJECTIVE: The Consultant shall also review all available City of Atlanta GIS and other supporting data related to the CSO system. The Consultant will deliver a data needs list to the City.

DATA NEEDS:

- City GIS files for all combined, sanitary and storm water conveyance system data: pipes, manholes, pump stations/force mains (if any); to include all available attribute information (e.g., pipe diameter, inverts, ground elevations, etc.)
- City GIS data for water bodies, streams and all other hydrologic features
- City GIS mapping data for streets, land use, parcels/buildings, and topography (contours)
- City GIS data for hydrologic basins and model basins

ASSUMPTIONS:

- All GIS files will be compatible with ESRI Arc Map version 9.1 (either personal geodatabase or shape files will be acceptable).

DELIVERABLES: Data needs list.

TASK 2 CSO FLOOD ANALYSIS MODEL DEVELOPMENT

OBJECTIVE: Based on the review completed in Task 1, the existing InfoWorks CSO models will be used to develop CSO flood analysis models incorporating overland flow path geometry and inlet capacities for the Boulevard, Clear Creek, Connally, Grant Park, Lloyd, North Avenue and Tanyard service areas.

DELIVERABLES: CSO flood analysis model databases

2.1 MODEL DEVELOPMENT

OBJECTIVE: The objective of this task is to develop a set of CSO flood analysis models that are built from the existing Clean Water Atlanta Program models and incorporate overland flow path geometry as well as limited inlet capacity information for the major portions of the system. Inlet capacity will be incorporated into existing model nodes. No additional nodes or links will be added to the model to reflect additional catch basins or pipes. The CSO flood analysis models will be based on existing conditions as communicated in the Clean Water Atlanta Program models. The Consultant will establish anticipated overland flow paths to use during the analysis of surface flooding. These overland flow paths are anticipated adjacent to the major system trunk lines and along some interceptors, not to exceed 35 miles of overland flow paths.

For the upper reaches of the system, it will be assumed that adequate inlets exist to receive incoming flow. While this is not realistic for extreme storm events such as the 100-year storm, the level of effort required to simulate inlet capacities in the upper portions of the system far exceeds the level of value derived from such a simulation. The Consultant will, however, identify low points (e.g. sag locations in roadways) in these upper portions of the system where ponding will likely occur. This will ensure that areas prone to flooding will be modeled as such. For the purpose of this scope, The Consultant is assuming 5 such locations per modeled service area for a total of 35 flood prone depression areas that will be modeled.

2.2 FIELD DATA REVIEW AND COLLECTION

OBJECTIVE: The objective of this task is to review any available field survey data for use to represent overland flow path geometry. Also included in this task is the review of data on areas of known surface flooding, basement flooding or system overflow (and associated rainfall data), for adequacy for validating the CSO flood analysis models.

The Consultant will develop overland flow path geometry primarily using the City of Atlanta's 2-foot contour topographic data. As necessary, the Consultant will collect field survey data to validate contour information and to provide clarity in areas of concern. Representative inlet/catch basin information will also be collected to validate inlet/catch basin capacity assumptions.

DATA NEEDS:

- City reported overflow locations for the last five years
- Customer complaint records, if any, that indicate other known areas of chronic surface/basement flooding
- Field reconnaissance and survey data, especially conveyance area cross-section surveys
- Basement or finished floor elevation data, where available
- Operations information and data
- Rainfall data (local rain gages as well as regional long term rainfall data)

ASSUMPTIONS:

- All data will be provided in digital format and, where indicated, geospatially referenced. This would include a spatially referenced digital dataset showing locations of documented historical flooding.

TASK 3 MODEL VALIDATIONS AND SYSTEM SIMULATIONS

OBJECTIVE: The model developed in Task 2 will be validated against historic flooding and chronic problem areas as documented in Task 2 above, such that the model adequately represents existing conditions and is suitable for estimating hydraulic grade lines for flood mapping purposes.

DELIVERABLES: Validated model with simulation results for existing conditions for up to four flood condition scenarios (e.g., design storms)

3.1 MODEL VALIDATION

OBJECTIVE: The Consultant understands that Clean Water Atlanta Program staff is in the process of re-calibrating the CSO system models. Therefore, our modeling schedule will be tied to the schedule of the on-going model

calibration process. We will begin our flood analysis in service areas where the representative CSO system model has already been calibrated. This will allow time for Clean Water Atlanta Program staff to complete calibration of the CSO system models for the remaining service areas.

The Consultant's validation will be qualitative in nature. Up to three validation storm events will be simulated for each CSO service area flood analysis model. System surcharging predicted by the model will be compared to available customer complaint information, manhole and CSO overflow records, and any anecdotal information documenting street/basement flooding associated with the validation storm event under consideration.

Hydrologic parameters established during CSO system model calibration by Clean Water Atlanta Program staff will not be altered during the validation of the CSO flood analysis models. The Consultant anticipates achieving model validation through the adjustment of parameters describing inlet capacity and overland flow path roughness. Parameters will be adjusted within a reasonable range to achieve a match with existing known overflow information. The Consultant will review available flooding location information and meet with City of Atlanta staff to establish an acceptable level of correlation between recorded and modeled data. If validation is not achieved through parameter adjustment as described above, the Consultant will seek input from the City and Clean Water Atlanta staff as to potential validation alternatives.

DATA NEEDS:

- Models developed under Task 2.
- Customer complaint records and reported overflow data that indicate known areas of chronic surface/basement flooding collected under Task 2.
- Rainfall data (local rain gages as well as regional long term rainfall data) collected under Task 2.

ASSUMPTIONS:

- Cities historic overflow reports (as submitted to the EPA) along with any database of customer complaints and chronic problem areas will be used for CSO flood analysis model validation. No flow monitoring data will be used for CSO flood analysis model validation.
- Model validation will be achieved through alteration of hydraulic parameters only. Specifically, alteration of model inputs representing inlet capacities as well inputs representing overland flow path roughness.

DELIVERABLE: Validation report that documents the validation steps and the results.

3.2 SYSTEM SIMULATIONS, FLOOD BOUNDARY DEVELOPMENT AND REPORTING

OBJECTIVE: This task will provide model output (flows and hydraulic grade lines) for the modeled combined sewer network for up to four design storms. Also included is the development of flood boundaries for the four design storms. The output data and floodplain boundaries will facilitate development of flood maps showing flooding depths and extents associated with the combined sewer system (to be completed in Task 4).

Flood boundaries will be developed with automated mapping techniques using InfoWorks hydraulic grade line output information and Arc Map GIS software.

All modeling efforts will be summarized in a report and delivered to both the City of Atlanta and the USACOE.

DATA NEEDS:

- Rainfall for selected design storm conditions

DELIVERABLES: System simulation results for up to four design storm conditions, all digital model files and a report summarizing modeling efforts.

TASK 4 FLOODPLAIN MAPPING

4.1 BASE MAP ACQUISITION AND PREPARATION

OBJECTIVE: This task involves bringing base map data within the CSO area up to FEMA specifications and entails edge matching CSO service area data with effective Digital Flood Insurance Rate Map (DFIRM) data. While only seven of the ten service areas will be modeled under this scope, base map acquisition and preparation will be performed such that information is gathered for all ten service areas to facilitate future mapping of the Greensferry, McDaniel and Stockade areas which are currently being separated.

DATA NEEDS:

- Current Vector or Raster Base map for the City's CSO area
- Effective DFIRM/FIRM base map

DELIVERABLE: System-wide current base map meeting or exceeding FEMA specifications.

4.2 DFIRM PRODUCTION (MERGING OF EFFECTIVE AND REVISED INFORMATION)

OBJECTIVE: The Consultant anticipates developing flood themes for the 5-, 10-, 25- and 100-year storms based on conversations with City of Atlanta staff. However, the four return events of interest will be confirmed with the City of Atlanta during the modeling phase of the project. CSO flood analysis model output data developed under Task 3.2 for up to four return events, including overland flow path centerlines, model cross sections, flood themes and hydraulic grade line elevations at selected intervals will be formatted for inclusion on the DFIRM.

The current effective 100- and 500-year floodplain along with the floodway theme data adjacent to the CSO service areas will also be formatted for inclusion on the DFIRM. In this case, shading will be used to differentiate between the effective FEMA flood extents outside of the CSO service areas and the flood extents determined for the CSO service areas under this project.

DATA NEEDS:

- CSO flood analysis model outputs including overland flow path centerlines, model cross sections as well as flood themes and hydraulic grade line elevations at selected intervals for up to four return events.
- Survey and other field data collected under Task 2.2.

DELIVERABLE: Formatted flood themes and associated modeling output data in accordance with the Technical Support Data Notebook (TSDN) format described in Appendix M of FEMA's Guidelines and Specifications for Flood Hazard Mapping Partners.

4.3 APPLICATION OF DFIRM GRAPHIC STANDARDS AND DATABASE SPECIFICATIONS

OBJECTIVE: The Consultant shall apply the final FEMA DFIRM graphic and database specifications to the DFIRM files produced under Task 4.2. This work shall include adding all required annotation, line pattern, area shading, and map collar information (e.g., map borders, title blocks, legends and notes

to users). The Consultant shall coordinate with the City as necessary to resolve any problems that are identified during our QA/QC review.

DATA NEEDS:

- Data developed under Tasks 4.1 and 4.2.

DELIVERABLE: Digital work maps showing overland flow path centerlines, floodplain boundary delineations for four return events, cross sections, hydraulic grade line elevations for four return events and flood insurance risk zone labels as applicable to a CSO area.

4.4 PREPARATION AND ISSUANCE OF PRELIMINARY DFIRM

OBJECTIVE: Final preparation and distribution of the Preliminary copies of the DFIRM for the City's CSO service areas modeled under this scope will be completed under this task.

DATA NEEDS:

- Formatted DFIRM data from task 4.3

DELIVERABLE: DFIRM mapping, database and metadata files in accordance with formats specified in Volume 1, Section 1.4 and Appendices K, L, and M of FEMA's Guidelines and Specifications for Flood Hazard Mapping Partners (April 2003). The report from Task 3.2 will be modified to include documentation of the mapping process.

DESIGN AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CITY OF ATLANTA, GEORGIA
FOR
DESIGN
FOR THE
COMBINED SEWER OVERFLOW SYSTEM IMPROVEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2007, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Corp of Engineers, Mobile District and the City of Atlanta (hereinafter the "Non-Federal Sponsor"), represented by the Mayor, Shirley Franklin.

WITNESSETH, THAT:

WHEREAS, Federal Construction, General funds for Fiscal Year _____, included funds for the Government to initiate design of the Storm Drainage System Improvements for the City of Atlanta, Georgia (hereinafter the "*Project*" as defined in Article I.A. of this Agreement) in Atlanta, Georgia.

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into an agreement (hereinafter the "Agreement") for the provision of design for the *Project*;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into an agreement (hereinafter the "Agreement") for the provision of design for the Combined Sewer and Storm Drainage System Improvements for the City of Atlanta, Georgia an element of the Parent Project and hereinafter the "*Project*", as defined in Article I.A. of this Agreement);

WHEREAS, design and construction of the *Project* is authorized by Section 219 of the Water Resources Development Act of 1992, Public Law 102-580, as amended (herein after the "Section 219 Program").

WHEREAS, Section 105(c) of the Water Resources Development Act of 1986, Public Law 99-662 (33 U.S.C. 2215), provides that the costs of design of a water resources project shall be shared in the same percentage as the purposes of such project;

WHEREAS, the Government and the Non-Federal Sponsor agree that, during the *period of design*, the Non-Federal Sponsor shall contribute 25 percent of *total design costs* and that, if a Project Cooperation Agreement for construction of the *Project* is executed between the Government and a non-Federal interest, such non-Federal interest shall contribute any remaining portion of the non-Federal share of the costs of design in accordance with the provisions of such Project Cooperation Agreement;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Project* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful design and implementation of the *Project*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I - DEFINITIONS

A. The term “*Project*” shall mean supporting the design and rehabilitation as described in the Letter Report “Environmental Infrastructure Assistance Program”, authorized under Section 219 of WRDA 1992, dated March 2007, addressing a portion of the City of Atlanta’s combined and uncombined sewer overflow system problems. This will include evaluation of the frequency and magnitude of the sewer overflows and storm water flooding within the CSO Area of the City’s collection system. The project Scope of Work “Appendix A” to the letter Report is the design outline which can be amended only by agreement of both parties to this Project Corporation Agreement.

B. The term “*total design costs*” shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to design of the *Project*. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the Government’s costs of engineering and design, economic and environmental analyses, and evaluation performed after a feasibility report whether performed prior to or after the effective date of this Agreement that were not previously shared with a non-Federal interest pursuant to any other agreement; the Government’s supervision and administration costs; the Non-Federal Sponsor’s and the Government’s costs of participation in the Design Coordination Team in accordance with Article III of this Agreement; the Government’s costs of contract dispute settlements or awards; and the Non-Federal Sponsor’s and the Government’s costs of audit in accordance with Article VII.B. and Article VII.C. of this Agreement. The term does not include any costs of additional work under Article II.E. of this Agreement; any costs of dispute resolution under Article V of this Agreement; any costs incurred as part of reconnaissance studies for the *Project*; any costs incurred as part of feasibility studies under any other agreement for the *Project*; the Non-Federal Sponsor’s costs of negotiating this Agreement; or any costs of negotiating a project cooperation agreement for the *Project* or separable element thereof.

C. The term “*period of design*” shall mean the time from the effective date of this Agreement to the date that a Project Cooperation Agreement for construction of the *Project*, or a separable element thereof, is executed between the Government and a non-Federal interest or the date that this Agreement is terminated in accordance with Article X of this Agreement, whichever is earlier.

D. The term “*financial obligations for design*” shall mean the financial obligations of the Government that result or would result in costs that are or would be included in *total design costs*.

E. The term “*non-Federal proportionate share*” shall mean the ratio of the Non-Federal Sponsor’s total contribution of funds required by Article II.B.1. of this Agreement to *financial obligations for design*, as projected by the Government.

F. The term “*betterment*” shall mean a difference in the design of an element of the *Project* that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the design of that element. The term does not include any design for features not included in the *Project* as defined in paragraph A. of this Article.

G. The term “*Federal program funds*” shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

H. The term “*fiscal year*” of the Federal Government shall mean one year beginning on October 1 and ending on September 30.

I. The term “*fiscal year of the Non-Federal Sponsor*” shall mean one year beginning on July 1 and ending on June 30.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the “Congress”) and using those funds and funds provided by the Non-Federal Sponsor, expeditiously shall design the *Project*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies.

1. The Government shall not issue the solicitation for the first contract for design of the *Project* or commence design of the *Project* using the Government’s own forces until the Non-Federal Sponsor has confirmed in writing its willingness to proceed with design of the *Project*.

2. To the extent possible, the Government shall design the *Project* in accordance with the Project Management Plan for the *Project* developed and updated as required by the Government after consultation with the Non-Federal Sponsor.

3. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all contracts, including relevant scopes of work, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the contents of solicitations, award of contracts or commencement of design using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Project* shall be exclusively within the control of the Government.

4. At the time the U.S. Army Corp of Engineers, Mobile District (hereinafter the "District Engineer") furnishes the contractor with the Government's Written Notice of Acceptance of Completed Work for each contract awarded by the Government for the *Project*, the District Engineer shall furnish a copy thereof to the Non-Federal Sponsor.

5. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all design products that are developed by contract or by Government personnel during the *period of design*. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the final approval of all design products shall be exclusively within the control of the Government.

6. Notwithstanding paragraph A.4. of this Article, if the award of any contract for design of the *Project*, or continuation of design of the *Project* using the Government's own forces, would result in *total design costs* exceeding \$1,256,300, the Government and the Non-Federal Sponsor agree to defer award of that contract, award of all remaining contracts for design of the *Project*, and continuation of design of the *Project* using the Government's own forces until such time as the Government and the Non-Federal Sponsor agree in writing to proceed with further contract awards for the *Project* or the continuation of design of the *Project* using the Government's own forces, but in no event shall the award of contracts or the continuation of design of the *Project* using the Government's own forces be deferred for more than three years. Notwithstanding this general provision for deferral, in the event the Assistant Secretary of the Army (Civil Works) makes a written determination that the award of such contract or contracts or continuation of design of the *Project* using the Government's own forces must proceed in order to comply with law or to protect human life or property from imminent and substantial harm, the Government, after consultation with the Non-Federal

Sponsor, may award a contract or contracts, or continue with design of the *Project* using the Government's own forces.

7. As of the effective date of this Agreement, \$947,550 of Federal funds for design and construction is currently projected to be available for the *Project*. The Government makes no commitment to request Congress to provide additional Federal funds for the *Project*. Further, the Government's financial participation in the *Project* is limited to the Federal funds that the Government makes available to the *Project*.

B. The Non-Federal Sponsor shall contribute 25 percent of *total design costs* in accordance with the provisions of this paragraph.

1. The Non-Federal Sponsor shall provide funds in accordance with Article IV.B. of this Agreement in the amount necessary to meet the Non-Federal Sponsor's share of 25 percent of *total design costs* if the Government projects at any time that the collective value of the Non-Federal Sponsor's contributions under Article III and Article VII of this Agreement will be less than such share.

2. The Government, subject to the availability of funds, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of 25 percent of *total design costs* if the Government determines at any time that the collective value of the following contributions has exceeded 25 percent of *total design costs*: (a) the value of the Non-Federal Sponsor's contributions under paragraph B.1. of this Article; and (b) the value of the Non-Federal Sponsor's contributions under Article III and Article VII of this Agreement.

C. Upon conclusion of the *period of design*, the Government shall conduct an accounting, in accordance with Article IV.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

D. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Project* under this Agreement unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

E. The Non-Federal Sponsor may request the Government to include *betterments* in the design of the *Project*. Such requests shall be in writing and shall describe the *betterments* requested to be included in the design of the *Project*. If in its sole discretion the Government elects to include such *betterments* or any portion thereof in the design of the *Project*, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. The Government shall allocate the costs of the *Project* features that include *betterments* between *total design costs* and the costs of the *betterments*. The Non-Federal

Sponsor shall be solely responsible for all costs of design of the *betterments* by the Government under this paragraph and shall pay all such costs in accordance with Article IV.D. of this Agreement.

F. If the Government and a non-Federal interest enter into a Project Cooperation Agreement for construction of the *Project*, or a separable element thereof, the Government, in accordance with the provisions of this paragraph, shall include the amount of *total design costs* in total project costs for the *Project*, or separable element thereof. Further, the Government, in accordance with the provisions of this paragraph, shall afford credit toward the non-Federal interest's share of total project costs for the *Project*, or separable element thereof, for the Non-Federal Sponsor's contributions toward *total design costs* under this Agreement.

1. If the Government and a non-Federal interest enter into a Project Cooperation Agreement for construction of the entire *Project*, the Government shall include the amount of *total design costs* in total project costs for the *Project*. Further, the Government shall afford credit toward the non-Federal interest's share of total project costs for the Non-Federal Sponsor's contributions toward *total design costs*, including any excess amount determined in accordance with Article IV.C.2. or Article IV.D.3.b. of this Agreement that was not refunded or reimbursed by the Government.

2. If the Government and a non-Federal interest enter into a Project Cooperation Agreement for construction of a separable element of the *Project*, the Government shall determine the portion of *total design costs* that are allocable to such separable element and include such amount in total project costs for such separable element. Further, the Government shall determine the amount of the Non-Federal Sponsor's contributions toward *total design costs*, including any excess amount determined in accordance with Article IV.C.2. or Article IV.D.3.b. of this Agreement that was not refunded or reimbursed by the Government, that are allocable or attributable to such separable element and shall afford credit for such amount toward the non-Federal interest's share of total project costs of such separable element.

3. If the Government and a non-Federal interest do not enter into a Project Cooperation Agreement for construction of the *Project* or a separable element thereof, the Government shall not be obligated to refund or reimburse the Non-Federal Sponsor, in whole or in part, for the Non-Federal Sponsor's 25 percent contribution of *total design costs*. Further, refund or reimbursement by the Government for any excess amount determined in accordance with Article IV.C.2. or Article IV.D.3.b. of this Agreement is subject to the availability of funds.

4. Notwithstanding any other provision of Article II.F. of this Agreement, any amount credited for the value of the Non-Federal Sponsor's contributions toward *total design costs* provided in accordance with Articles III and VII of this Agreement shall not be applied toward the 5 percent cash share required by Section 103(a)(1) (A) of

the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213(a)(1)(A)).

G. This Agreement shall not be construed as obligating either party to seek funds for, or to participate in, construction or implementation of the *Project* or a separable element thereof or as relieving the Non-Federal Sponsor of any future obligation under the terms of any Project Cooperation Agreement.

ARTICLE III - DESIGN COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Design Coordination Team. Thereafter, the Design Coordination Team shall meet regularly until the end of the *period of design*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Design Coordination Team.

B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Design Coordination Team informed of the progress of design and of significant pending issues and actions, and shall seek the views of the Design Coordination Team on matters that the Design Coordination Team generally oversees.

C. Until the end of the *period of design*, the Design Coordination Team shall generally oversee the *Project*, including matters related to: design; completion of all necessary environmental coordination and documentation; scheduling of reports and work products; plans and specifications; real property and relocation requirements for construction of the *Project*; design contract awards and modifications; design contract costs; the Government's cost projections; anticipated requirements and needed capabilities for performance of operation, maintenance, repair, rehabilitation, and replacement of the *Project* including issuance of permits; and other matters related to the *Project*. This oversight of the *Project* shall be consistent with a project management plan developed by the Government after consultation with the Non-Federal Sponsor.

D. The Design Coordination Team may make recommendations to the District Engineer on matters related to the *Project* that the Design Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Design Coordination Team. The Government, having the legal authority and responsibility for design of the *Project*, has the discretion to accept or reject, in whole or in part, the Design Coordination Team's recommendations.

E. The Non-Federal Sponsor's costs of participation in the Design Coordination Team shall be included in *total design costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article VII.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. The

Government's costs of participation in the Design Coordination Team shall be included in *total design costs* and shared in accordance with the provisions of this Agreement.

ARTICLE IV - METHOD OF PAYMENT

A. In accordance with the provisions of this paragraph, the Government shall maintain current records and provide to the Non-Federal Sponsor current projections of costs, financial obligations, and the contributions provided by the parties.

1. As of the effective date of this Agreement, *total design costs* are projected to be \$1,149,900; of this amount, the Non-Federal Sponsor's contribution of funds required by Article II.B.1. of this Agreement is projected to be \$287,500, which is the *non-Federal proportionate share* projected at 25 percent; and the Government's total financial obligation of funds for such costs required by Article II.E. of this Agreement are projected to be \$862,400. These amounts and percentages are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

2. By quarterly and by each yearly anniversary thereof until the conclusion of the *period of design* and resolution of all relevant claims and appeals, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total design costs*; the Non-Federal Sponsor's total contribution of funds required by Article II.B.1. of this Agreement; the *non-Federal proportionate share*; the total contribution of funds required from the Non-Federal Sponsor for the upcoming contract and upcoming *fiscal year*; and the Government's total financial obligations to be incurred for additional work and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.E. of this Agreement.

B. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.B.1. of this Agreement in accordance with the provisions of this paragraph.

1. Not less than **30** calendar days prior to the scheduled date for issuance of the solicitation for the first contract for design of the *Project* or commencement of design of the *Project* using the Government's own forces, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and the funds the Government determines to be required from the Non-Federal Sponsor to meet its projected share under Article II.B.1. of this Agreement. Not later than such scheduled date, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, Mobile District" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by presenting the

Government with an irrevocable letter of credit acceptable to the Government for such required funds, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

2. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover: (a) the *non-Federal proportionate share of financial obligations for design* incurred prior to the commencement of the *period of design*; and (b) the *non-Federal proportionate share of financial obligations for design* as *financial obligations for design* are incurred. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's share of such financial obligations, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within **60** calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

C. Upon conclusion of the *period of design* and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals prevent a final accounting from being conducted in a timely manner, the Government shall conduct an interim accounting and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim accounting to complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, shall determine *total design costs*. In addition, the interim or final accounting, as applicable, shall determine each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the interim or final accounting, as applicable, show that the Non-Federal Sponsor's total required share of *total design costs* exceeds the Non-Federal Sponsor's total contributions provided thereto, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, **Mobile District**" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

2. Should the interim or final accounting, as applicable, show that the total contributions provided by the Non-Federal Sponsor for *total design costs* exceed the Non-Federal Sponsor's total required share thereof, the Government, subject to the availability of funds, shall refund or reimburse the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund or reimbursement and funds are not available to refund or reimburse the excess amount to the Non-Federal Sponsor, the

Government shall seek such appropriations as are necessary to make the refund or reimbursement. If such appropriations are not received or, if the Non-Federal Sponsor requests that the Government not refund or reimburse the excess amount to the Non-Federal Sponsor, the Government shall apply the excess amount toward the share of total project costs for the *Project* that is required of the non-Federal interest executing a Project Cooperation Agreement or agreements for the *Project* or separable element thereof in accordance with Article II.F. of this Agreement.

D. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.E. of this Agreement for additional work in accordance with the provisions of this paragraph.

1. Not less than 30 calendar days prior to the scheduled date for the first financial obligation for additional work, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and of the full amount of funds the Government determines to be required from the Non-Federal Sponsor to cover the costs of the additional work. No later than 30 calendar days prior to the Government incurring any financial obligation for additional work, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to cover the costs of such additional work through any of the payment mechanisms specified in paragraph B.1. of this Article.

2. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the Government's financial obligations for such additional work as they are incurred. If at any time the Government determines that the Non-Federal Sponsor must provide additional funds to pay for such additional work, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. At the time the Government conducts the interim or final accounting, as applicable, the Government shall conduct an accounting of the Government's financial obligations for additional work incurred and furnish the Non-Federal Sponsor with written notice of the results of such accounting. If outstanding relevant claims and appeals prevent a final accounting of additional work from being conducted in a timely manner, the Government shall conduct an interim accounting of additional work and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim accounting of additional work to complete the final accounting of additional work and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. Such interim or final accounting, as applicable, shall determine the Government's total financial obligations for additional work and the Non-

Federal Sponsor's contribution of funds provided thereto as of the date of such accounting.

a. Should the interim or final accounting, as applicable, show that the total obligations for additional work exceed the total contribution of funds provided by the Non-Federal Sponsor for such additional work, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, **Mobile District**" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

b. Should the interim or final accounting, as applicable, show that the total contribution of funds provided by the Non-Federal Sponsor for additional work exceeds the total obligations for such additional work, the Government, subject to the availability of funds, shall refund the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund and funds are not available to refund the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund. If such appropriations are not received or, if the Non-Federal Sponsor requests that the Government not refund the excess amount to the Non-Federal Sponsor, the Government shall apply the excess amount toward the share of total project costs for the *Project* that is required of the non-Federal interest executing a Project Cooperation Agreement or agreements for the *Project* or separable element thereof in accordance with Article II.F. of this Agreement.

ARTICLE V - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI – HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design of the *Project* and design of any additional work pursuant to Article II.E. of this Agreement, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE VII - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-Federal Sponsor shall each allow the other to inspect such books, records, documents, or other evidence.

B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Project* shall be included in *total design costs* and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in *total design costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VIII - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government shall comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto and Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

ARTICLE IX - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE X - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend future performance under this Agreement unless he determines that continuation of design of the *Project* is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Project*.

B. In the event the Government projects that the amount of Federal funds the Government will make available to the *Project* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Project* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total design costs* that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project*, future performance under this Agreement shall be suspended. Such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total design costs* the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

C. In the event the Government determines that modifications to the *Project* are required and that additional authorization by Congress will be required before the Government may construct such modifications, the Government shall notify the Non-Federal Sponsor in writing of such determinations and shall terminate this Agreement.

D. In the event that this Agreement is terminated pursuant to this Article, both parties shall conclude their activities relating to the *Project* and conduct an accounting in accordance with Article IV.C. of this Agreement. To provide for this eventuality, the

Government may reserve a percentage of total Federal funds made available for the *Project* and an equal percentage of the total funds contributed by the Non-Federal Sponsor in accordance with Article II.B.1. of this Agreement as a contingency to pay costs of termination, including any costs of resolution of contract claims and contract modifications.

E. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE XI - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:

Mayor
City of Atlanta
55 Trinity Avenue, S.W. Suite 4400
Atlanta, Georgia 30303
-0330.

If to the Government:

District Engineer
U.S. Army Corps of Engineers, Mobile District
P.O. Box 2288
Mobile, Alabama 36628-0001

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XII - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XIII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not party to this Agreement.

ARTICLE XIV - OBLIGATIONS OF FUTURE APPROPRIATIONS

A. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the City Council of the City of Atlanta, Georgia, where creating such an obligation would be inconsistent with Council of the City of Atlanta, GA.

B. The Non-Federal Sponsor intends to fulfill its obligations under this Agreement. The Non-Federal Sponsor shall include in its budget request or otherwise propose appropriations of funds in amounts sufficient to fulfill these obligations for (1) year and shall use all reasonable and lawful means to secure those appropriations. The Non-Federal Sponsor reasonably believes that funds in amounts sufficient to fulfill these obligations lawfully can and will be appropriated and made available for this purpose. In the event funds are not appropriated in amounts sufficient to fulfill these obligations, the Non-Federal Sponsor shall use its best efforts to satisfy any requirements for payments or contributions of funds under this Agreement from any other source of funds legally available for this purpose. Further, if the Non-Federal Sponsor is unable to fulfill these obligations, the Government may exercise any legal rights it has to protect the Government's interests related to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Deputy Commissioner, City of Atlanta.

DEPARTMENT OF THE ARMY

CITY OF ATLANTA, GEORGIA

BY: _____
Peter F. Taylor
Colonel, Corps of Engineer
District Engineer

BY: _____ **(Seal)**
Shirley Franklin.
Mayor
City of Atlanta

DATE: _____

DATE: _____

CITY OF ATLANTA

Attest:

Approved as to Form:

BY: _____
Municipal Clerk

BY: _____
City Attorney

Recommended:

BY: _____
Chief, Operating Officer

BY: _____
Chief, Financial Officer

BY: _____
Commissioner,
Department of Watershed Management

CERTIFICATE OF AUTHORITY

I, _____, do hereby certify that I am the principal legal officer of the City of Atlanta, that the City of Atlanta is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the City of Atlanta in connection with design of the Combined Sewer and Storm Drainage System Improvement and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the City of Atlanta have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____ 2007.

**City Attorney
City of Atlanta**

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Shirley Franklin
Mayor
City of Atlanta, Georgia

DATE: _____

**A RESOLUTION
BY CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR A PROJECT TO ANALYZE AND MAP FLOOD PRONE AREAS ASSOCIATED WITH STORM WATER RUNOFF WITHIN THE COMBINED SEWER BASINS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN AN AMOUNT NOT TO EXCEED THREE HUNDRED THIRTY THREE THOUSAND DOLLARS AND NO CENTS (\$333,000.00); ALL CONTRACTED WORK WILL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBER 2J21 (WATER & WASTEWATER RENEWAL & EXTENSION) 524001 (CONSULTANT/PROFESSIONAL SERVICES) Q38I029294DA (CSO COST SHARING); AND FOR OTHER PURPOSES.

WHEREAS, Section 219 of the Water Resources and Development Act of 1992, has authorized the United States Army Corps of Engineers (USACE) to contribute One Million Dollars (\$1,000,000.00) towards a combined sewer system project to be managed by USACE, and requiring the City of Atlanta ("City") to contribute Twenty Five Percent (25%) of the project costs, approximately Three Hundred Thirty Three Thousand Dollars and No Cents (\$333,000.00); and

WHEREAS, the Department of Watershed Management has a need to analyze and map flood prone areas associated with storm water runoff within the Combined Sewer Basins, and has reached agreement with USACE that the Project meets the definition under Section 219 of the Water Resources and Development Act of 1992; and

WHEREAS, the Project will allow the City to create and implement comprehensive development plans and preliminary designs for relief projects that give full consideration of the existing and near future capability of the combined sewer system; and

WHEREAS, the Commissioner of the Department of Watershed Management recommends the execution of an agreement with the United States Army Corps of Engineers to conduct a Project in an amount not to exceed Three Hundred Thirty Three Thousand Dollars and No Cents (\$333,000.00).

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Mayor is authorized to execute an agreement with the United States Army Corps of Engineers ("USACE") for the Project in an amount not to exceed Three Hundred Thirty Three Thousand Dollars and No Cents (\$333,000.00).

BE IT FURTHER RESOLVED, that all contracted work will be charged to and paid from Fund, Account and Center Number 2J21 (Water & Wastewater Renewal & Extension) 524001 (Consultant/Professional Services) Q38I029294DA (CSO Cost Sharing).

BE IT FINALLY RESOLVED, that the Agreement will not become binding on the City and the City will incur no obligation nor liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney and delivered to the USACE.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Legislative Counsel (Signature): Megan S. Middleton *M Middleton*

Contact Number: 6207

Originating Department: Watershed Management

Committee(s) of Purview: City Utilities

Council Deadline: October 16, 2006

Committee Meeting Date(s): October 31, 2006 Full Council Date: November 6, 2006

Commissioner Signature Robert J. Hunter *Robert J. Hunter* ^{XP}

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR A PROJECT TO ANALYZE AND MAP FLOOD PRONE AREAS ASSOCIATED WITH STORM WATER RUNOFF WITHIN THE COMBINED SEWER BASINS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN AN AMOUNT NOT TO EXCEED THREE HUNDRED THIRTY THREE THOUSAND DOLLARS AND NO CENTS (\$333,000.00); ALL CONTRACTED WORK WILL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBER 2J21 (WATER & WASTEWATER RENEWAL & EXTENSION) 524001 (CONSULTANT/PROFESSIONAL SERVICES) Q38I029294DA (CSO COST SHARING); AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any) \$333,000.00

Mayor's Staff Only

Received by Mayor's Office: _____ Reviewed by: _____
(date)

Submitted to Council: _____
(date)

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Legislative Counsel (Signature): Megan S. Middleton

M Middleton

Contact Number: 6207

Originating Department: Watershed Management

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Commissioner Signature

Robert J. Hunter ^{2P}

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FINANCIAL IMPACT (if any) \$333,000.00

Mayor's Staff Only

Received by Mayor's Office:

10.17.06 *DQ*
(date)

Reviewed by:

JS

Submitted to Council:

10/18/06
(date)